



ARIZONA DEPARTMENT OF ECONOMIC SECURITY

1789 W. Jefferson - P.O. Box 6123 - Site Code 791A - Phoenix, Arizona 85005

Janet Napolitano
Governor

Division of Developmental Disabilities
Telephone: (602) 542-0419 Fax: (602) 542-6870
TTY/Voice Services: 7-1-1

Tracy L. Wareing
Director

December 29, 2006

Dear Qualified Vendor:

As you are aware, the voter approved initiative, Proposition 202, raises the minimum wage in Arizona to \$6.75 per hour effective January 1, 2007. The purpose of this letter is to provide some background information and give guidance as to the Division's expectations when the new law goes into effect.

There have been a number of questions and concerns raised as to whether and how providers of employment services operating with a special sub-minimum wage certificate under the federal Department of Labor, Section 525, Part 14C of the Fair Labor Standards Act, and the consumers served by these programs, may be impacted by this new law. The two service categories that have been raised most frequently are center-based services and group-supported employment. The Division is awaiting further legal guidance from the Office of the Attorney General.

The Industrial Commission of Arizona (ICA) issued a press release on December 26, 2006 that states, in part, the following: "Because the ICA will still be in the process of gathering information from both the community and employers on the effective date, employers who participate in sheltered work center programs will not be penalized for not paying the new wage. They are being advised to follow current procedure until an advisory opinion can be issued." The press release in its entirety is an attachment to this letter.

The Division has conferred with most of its employment service vendors to inquire about their plans for services starting January 1, 2007 as part of our efforts to identify short-term contingency plans that would allow both vendors and consumers to maintain current vocational and employment activities to the greatest extent possible. Some vendor agencies have chosen to conduct business as usual under the federal sub-minimum certificate, some are choosing to provide work at the new minimum wage and others are looking at non-paid, work related services for the immediate future.

In the event that a provider determines that it will not continue its current employment program or will reduce the hours of an individual's employment activity, the following is the Division's short term contingency plan specific to each Division-funded employment service for those consumers who will lose their paid work activity as a result of Proposition 202.

CENTER-BASED EMPLOYMENT

Vendors that do not plan to continue to provide paid work, or that plan to reduce the number of hours per day that a consumer is engaged in paid work, should engage consumers in non-paid work activities and training related to generic work skills and appropriate work habits, as per the service specifications in the Division's qualified vendor agreement. For the short term, consumers will stay in their current services and environments. Vendors should continue to bill the Center-Based Employment (CBE) rate as they currently do for units of service provided. Providers that serve consumers with "split" authorizations for CBE and Day Treatment and Training are instructed to continue services as authorized.

GROUP SUPPORTED EMPLOYMENT

Vendors that do not plan to continue to provide paid group supported employment opportunities, or that plan to reduce the amount of paid work for program participants, should request a change in service authorization to center-based employment, if the vendor also currently provides that center-based service. District staff have been instructed to authorize CBE in lieu of Group Supported Employment (GSE), for up to 90 days. This change will not necessitate a meeting of the full Individual Support Plan team to approve. Providers that serve consumers with "split" authorizations for both center-based and group supported employment will be instructed to bill exclusively for the Center-Based Employment service.

Providers that do not currently contract for center-based employment services may add this service to their qualified vendor agreement. The Division's contract staff will assist vendors in expediting the amendment. Vendors should submit their contract amendment as soon as possible on the Qualified Vendor Application on the Division's Website and the Division will make all awards for Center-Based Employment for these Group Supported Employment vendors retroactive to January 1, 2007. Vendors can then bill the new service effective January 1, 2007 or beginning the date of the actual service provision if it is after that date. If the provider chooses not to add the service, the vendor should immediately notify the Division at their District office so that we can assist the consumer in selecting an alternate service or provider. Vendors are also strongly encouraged to consider individual supported employment opportunities for those consumers previously participating in group supported employment and request authorization for job search and/or job coaching services.

INDIVIDUAL SUPPORTED EMPLOYMENT

The Division believes that most consumers receiving individual supported employment are competitively employed and already earning minimum wage or higher and should not be impacted by the change. Should a consumer lose his or her current employment, the Division asks that the vendor implement a job search for new job opportunities for the consumer per the service specifications. We do not anticipate the need for moves for individuals currently competitively employed from individual employment back to group or center-based services.

As the Division believes that consumers should remain in a structured environment with a day that promotes each person's current vocational and employment goals, we do not plan to increase Day Treatment programs nor do we think that it is in the best interest of consumers to remain at home without employment services. Any request for these options will require an ISP team meeting and review of the consumer's individual need.

This interim contingency plan is only intended to address the immediate issue of the effective date of the state's new minimum wage law until further legal guidance is available. It does not alter the Division's long term goal of 25% of adults receiving day services being employed in integrated services in their community.

For additional information relative to amending your Qualified Vendor agreement, please contact the Division's Contract Office at 602-542-6874. For questions concerning employment program specifications, please contact your District Employment Program Specialist.

Attached please find a letter to consumers and families. We are requesting that you hand this out to consumers and families on Tuesday, January 2, 2007, on our behalf. This is being mailed as well, but this method of communication will further rapid outreach to the people that we both support.

Thank you for your assistance and commitment to continuing the provision of employment services and supports for individuals with developmental disabilities.

Sincerely,

A handwritten signature in cursive script, appearing to read "Barbara Brent".

Barbara Brent

Attachment: ICA Press Release
Letter to Consumers and Families

<http://www.azdes.gov/ddd/>